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EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. ROBERTS. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: Calendar Nos. 726, 728, 730, 731, 732, 788, 789, 790, 796, and No. 853. I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, any statements relating to the nominations appear at this point in the RECORD, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Steven Robert Mann, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Turkmenistan.

Elizabeth Davenport McKune, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Qatar.

Melissa Foelsch Wells, of Connecticut, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

Richard E. Hecklinger, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Thailand.

Theodore H. Kattouf, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Arab Emirates.

THE JUDICIARY

Carl J. Barbier, of Louisiana, to be United States District Judge for the Eastern District of Louisiana.

Gerald Bruce Lee, of Virginia, to be United States District Judge for the Eastern District of Virginia.

Patricia A. Seitz, of Florida, to be United States District Judge for the Southern District of Florida.

William B. Traxler, Jr., of South Carolina, to be United States Circuit Judge for the Fourth Circuit.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Robert M. Walker, of Tennessee, to be Deputy Director of the Federal Emergency Management Agency.

MONTREAL PROTOCOL NO. 4— TREATY DOCUMENT NO. 95-2(B)

Mr. ROBERTS. Mr. President, I ask unanimous consent that the Senate

proceed to consider the following treaty on today's Executive Calendar, No. 22. I further ask unanimous consent that the treaty be considered as having passed through its various parliamentary stages up to and including the presentation of the resolution of ratification; all committee provisos, reservations, understandings, declarations, be considered agreed to; that any statements be inserted in the CONGRESSIONAL RECORD as if read; and I further ask consent that when the resolution of ratification is voted upon, the motion to reconsider be laid upon the table, the President be notified of the Senate's action, and, following the disposition of the treaty, the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. I ask for a division vote on the resolution of the ratification.

The PRESIDING OFFICER. A division is requested. Senators in favor of the ratification will rise and stand until counted.

All those opposed to ratification, please rise and stand until counted.

On a divisions, two-thirds of the Senators present and having voted in the affirmative, the resolution of ratification is agreed to.

The resolution of ratification is as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Montreal Protocol No. 4 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on October 12, 1929, as amended by the Protocol done at The Hague on September 8, 1955 (hereinafter Montreal Protocol No. 4) (Executive B, 95th Congress, 1st Session), subject to the declaration of subsection (a), and the provisos of subsection (b).

(a) DECLARATION.—The Senate's advice and consent is subject to the following declaration:

(1) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of the resolution of ratification of the INF Treaty, approved by the Senate on May 27, 1988, and Condition (8) of the resolution of ratification of the Document Agreed Among the States Parties of the Treaty on Conventional Armed Forces in Europe, approved by the Senate on May 14, 1997.

(b) PROVISO.—The resolution of ratification is subject to the following provisos:

(1) SUPREMACY OF THE CONSTITUTION.—Nothing in the Treaty requires or authorizes legislation or other action by the United States of America that is prohibited by the Constitution of the United States as interpreted by the United States.

(2) RETURN OF PROTOCOL NO. 3 TO THE PRESIDENT.—Upon submission of this resolution of ratification to the President of the United States, the Secretary of the Senate is directed to return to the President of the United States the Additional Protocol No. 3 to Amend the Convention for the Unification of Certain Rules relating to International Carriage by Air, signed at Warsaw on October 12, 1929, as amended by the Protocols done at The Hague, on September 28, 1955, and at Guatemala City, March 8, 1971 (Executive B, 95th Congress).

Mr. BIDEN. Mr. President, I am pleased to support Montreal Protocol No. 4, which will simplify the rules for cargo and baggage liability in international air traffic. It is important for the Senate to act now, because Protocol No. 4 has already entered into force. Consequently, U.S. carriers and cargo companies are unable to take advantage of these simplified rules, at a significant economic cost. U.S. industry estimates that Protocol No. 4 will save them \$1 billion annually.

The treaty has been pending in the Senate for over 20 years. It failed to gain support not because it is controversial, but because it has been the victim of misfortune—having been paired, in its submission to the Senate, with Montreal Protocol No. 3, a treaty placing unreasonably low limits on personal liability in international air traffic. I oppose Protocol No. 3, because I believe strongly that limits on personal liability contained in the treaty are an anachronism. Such limits may have been warranted when the underlying Warsaw Convention was drafted in 1929, a time when the airline industry was in its infancy. Now, however, when international air carriers are large corporations with significant financial resources—and thus fully capable of purchasing adequate insurance—there is no justification for such limits.

For the past two decades, the aviation industry and the Executive Branch unsuccessfully sought ratification of Protocol No. 3 and No. 4. Only once did the Protocols reach the full Senate floor. In 1983, the Senate voted 50-42 to approve them, far short of the two-thirds necessary for advice and consent to ratification.

Recognizing that Protocol No. 3 cannot be approved by the Senate, the industry and the Executive have effectively abandoned the effort, and have requested the Senate to proceed with consideration of Protocol No. 4. The resolution of ratification of Protocol No. 4 will bring a formal end to the misguided effort to approve No. 3: the resolution directs the Secretary of the Senate to return Protocol No. 3 to the President.

More importantly, the industry, acting through its association, the International Air Transport Association, has taken steps to waive these personal liability limits. Consequently, most of the leading air carriers have agreed in their contracts with passengers to waive all personal liability limits, and agreed to strict liability up to 100,000 Special Drawing Rights, or about \$130,000.

These are positive developments, and I commend the airlines for taking these steps. Although not all carriers have waived the liability limits, all of the major U.S. carriers have, as have many of the leading foreign carriers which fly to the United States. I urge the Department of Transportation to make every effort to ensure that all carriers involved in international air traffic which fly within or to or from